



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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WEARE EDUCATION ASSOCIATION/NEA-NEW  
HAMPSHIRE

Complainant

v.

WEARE SCHOOL BOARD

Respondent

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CASE NO. T-0278:5

DECISION NO. 91-101

#### APPEARANCES

Representing Weare Education Association/NEA-NH:

Wally B. Cumings, UniServ Director

Representing Weare School Board:

Gary W. Wulf, Chief Negotiator

Also appearing:

James L. Bucknam, WEA  
John H. Sokul, SAU #24  
Ben Augello, SAU #24  
Frank Bolton, Jr., School Board  
Gretchen U. Gram, WEA  
Bethany Chapman, WEA  
Jill D. Bresnahan, WEA  
Debra A. LeBlanc, WEA  
J. A. Bolton, Sr., Taxpayer

#### BACKGROUND

On December 13, 1990, the Weare Education Association, NEA-New Hampshire, certified agent for a bargaining unit of "all full-time professional teaching employees, \*" of the employer as certified by this Board on December 7, 1976, petitioned to modify said bargaining unit by including therein aides, full and part-time (12 employees), secretaries (2 employees), food service workers (4 employees) and maintenance support staff (5 employees). By letter of

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\* modified in July of 1987 to include the school nurse.

December 21, 1990, the employer through Mr. Wulf, objected to the proposed modification. This matter was then set for hearing before the Board on May 14, 1991, after which it was rescheduled and heard on September 24, 1991 at the PELRB office in Concord, New Hampshire.

The Association presented evidence that this Board has approved bargaining units with both professional and non-professional employees. It argued under the provision of RSA 273-A:8-1 that the petitioned for employees have the same conditions of employment, that they work in the same facility, that they are in the same craft or profession (citing to custodial and supervisory roles petitioned for employees fulfill in the absence of teaching personnel), and that they all work for the same employer in the "same organizational unit." The Association concluded that its proposal would enhance the efficiency of government operations versus the creation of a separate or additional bargaining unit(s).

The employer disputed the alleged community of interest. It claimed that there was a difference in supervision and that petitioned-for employees were, in some instances (namely, aides) supervised by teachers. It challenged the alleged self-felt community of interest reference by the Association and said the proximity of the work place with other unit employees was not persuasive. On the other hand, in its letter of December 21, 1990, the Board said that "changes in the organization of the District since the last negotiations have increased the contact and community of interest," citing to "increased use of classroom aides." It concluded, "A separate collective bargaining unit would avoid this potential conflict of interest."

#### FINDINGS OF FACT

1. The petitioned for employees are employees of the Weare School Board.
2. The petitioned for employees are hired, fired and/or disciplined according to the recommendation of the Superintendent and subject to the oversight of the Board.
3. Petitioned for aides have ordinary, customary and regular student contact as part of their job functions. Other petitioned for employees do not.
4. The role of teachers in "supervising" aides is not dispositive of the employment relationship between the aides and the Board.
5. Petitioned for employees received the benefit of the employment relationship (e.g., wages and benefits) from the same employer as the already included employees, although those wages, benefits and method of calculation may not be identical.

#### ORDER

The Board disposes of the foregoing Petition for Modification as follows:

1. Aides (full or part-time) shall be added to the teaching personnel unit as originally certified on December 7, 1976.

2. All other petitioned for employees not in the job classification of aides are excluded from the teachers' bargaining unit.

So ordered.

Signed this 12th day of December, 1991.

Corrected 8th day of JANUARY , 1992.

  
EDWARD J. HASELTINE  
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members E. Vincent Hall and Richard W. Roulx present and voting.